



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.02.2018

Delivered on : 12.03.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.1215 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

S.Seran

... Petitioner/A1

Vs.

V.Ashok Kumar

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the private complaint in C.C.No.350 of 2012 on the file of the Judicial Magistrate Court No.II, Karur and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.V.Kannan

For Respondent : Mr.AN.Ramanathan

for Mr.M.Chidambarakumar Bharathi

ORDER

The petitioner is Accused No.1 in C.C.No.350 of 2012 on the file of the Judicial Magistrate Court No.II, Karur. The respondent herein is the resident of Rameswarampatti near to Karur. He is running a Textile business, in which, 50 workers are working as Labourers. Apart from running the Textile business, he is doing public service among the general public and thereby, he is having good reputation among the public living in the Karur District. On 07.12.2012, he lodged a private complaint against the petitioner herein for giving a false news, which was published on 08.11.2012 in Kalai Kadir daily newspaper, which was run by one S.Varathan, he is not a party in this petition. Now, on going through the allegation levelled against this petitioner is he gave a false news to the Editor of Kalai Kadir newspaper by mentioning as "முத்திரியின் தம்பியால் கேரின் அபகரிப்பு, அரசு அதிகாரிகள் துணையுடன் வாகுத்தப்பட்ட கேரின் டிஷி ஆபரேட்டர்". Admittedly, the petitioner herein is the brother of former Minister Senthil Balaji. Now, after seeing the news published in the newspaper, the people, who are standing near to the Muthu Tea Stall with the newspaper laughed at him and teased him. Aggrieved over the same, the respondent herein filed a private complaint before the Judicial Magistrate Court No.II, Karur, which was taken on file as C.C.No.350 of 2012. Now, the petitioner being the first accused in the abovesaid case filed this Criminal Original



Petition under Section 482 Cr.P.C., in which, he is seeking the relief to quash the said case.

2.The learned counsel appearing for the petitioner contended that in the Trial Court, no evidence was adduced against this petitioner for giving news as alleged by the respondent. Further, he added as even though the said news was viewed by the petitioner, it should not be understood that only with an intention to make a harm to the reputation of the respondent, the news was published in the newspaper. Hence, he prayed to allow this Criminal Original Petition and quash the case against the petitioner.

3.On the other hand, the learned counsel appearing for the respondent made a submission as being the brother of the Ex.Minister, the public all are aware the reputation of the respondent, but only with an intention to create false reputation against the respondent, the news was given by the petitioner herein and published in Kalai Kadir newspaper.

4.Before considering the merits and de-merits of the arguments advanced by the learned counsel on either side, it is necessary to identify the factors, which constitutes the offence under Section 499 I.P.C., for which, the Hon'ble Supreme Court in Mohamed Abdullah Khan Vs. Prakash K. reported in 2018 (1) SCC 615, has held as follows:

'10.An analysis of the above reveals that to constitute an offence of defamation it requires a person to make some imputation concerning any other person;

(i) Such imputation must be made either

(a) With intention, or

(b) Knowledge, or

(c) Having a reason to believe

that such an imputation will harm the reputation of the person against whom the imputation is made.

(ii) Imputation could be, by

(a) Words, either spoken or written, or

(b) By making signs, or

(c) Visible representations

(iii) Imputation could be either made or published.

The difference between making of an imputation and publishing the same is:

If 'X' tells 'Y' that 'Y' is a criminal
- 'X' makes an imputation.

If 'X' tells 'Z' that 'Y' is a criminal
- 'X' publishes the imputation.

The essence of publication in the context of Section 499 is the communication of defamatory imputation to persons other than the persons against whom the imputation is made.''



5. So, according to the verdict of our Hon'ble Supreme Court, it should be necessary to elicit that the petitioner is having the intention to defame the name of the respondent among the public. In the Sworn Statement given by the respondent before the learned Judicial Magistrate No.II, Karur, he did not say anything about the previous enmity with regard to the petitioner. Moreover, the name, position and other things of the respondent have not been mentioned before the learned Judicial Magistrate No.II, Karur. In general, if a person is having a grudge or enmity towards a particular person alone may have the mindset and intention to defame the reputation of that particular person. But, in this case, the respondent had not mentioned anything about the offence committed by the petitioner, particularly, in what way, he is having the intention to defame the reputation of the respondent. Further, the petitioner has also not mentioned the name of the respondent. Accordingly, I have no hesitation to hold that the news given by the petitioner is nothing but a public question, for which, it is relevant to extract below Exception III of Section 499 I.P.C.:-

''Third Exception.- It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.''

6. Accordingly, even presuming that the petitioner alone gave the news to the newspaper, since the matter is touching the public issue, it is not an offence, which does not constitute the offence of defamation. So, to proceed the trial in the Magistrate Court, is nothing but wasting the precious time of the Court and therefore, the proceedings in C.C.No.350 of 2012 pending on the file of the Judicial Magistrate Court No.II, Karur, against the present petitioner alone shall stand quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To
The Judicial Magistrate No.II, Karur.

+1CC to Mr.V.Kannan, Advocate, SR.No. 54365

+1CC to M/s.M.Chidambarakumar Bharathi, Advocate, SR.No. 54387

order in
Crl.O.P. (MD) No.1215 of 2013
12.03.2018